

further mitigation necessary, and any NEPA documents that may be required.

(b) *Reduction of time periods.* On a case-by-case basis, DOE may reduce time periods established in this part that are not required by the CEQ Regulations. If DOE determines that such reduction is necessary, DOE shall publish a notice in the FEDERAL REGISTER specifying the revised time periods and the rationale for the reduction.

(c) *Other.* Any variance from the requirements of this part, other than as provided by paragraphs (a) and (b) of this section, must be soundly based on the interests of national security or the public health, safety, or welfare and must have the advance written approval of the Secretary; however, the Secretary is not authorized to waive or grant a variance from any requirement of the CEQ Regulations (except as provided for in those regulations). If the Secretary determines that a variance from the requirements of this part is within his/her authority to grant and is necessary, DOE shall publish a notice in the FEDERAL REGISTER specifying the variance granted and the reasons.

Subpart D—Typical Classes of Actions

SOURCE: 76 FR 63787, Oct. 13, 2011, unless otherwise noted.

§ 1021.400 Level of NEPA review.

(a) This subpart identifies DOE actions that normally:

(1) Do not require preparation of either an EIS or an EA (are categorically excluded from preparation of either document) (appendices A and B to this subpart D);

(2) Require preparation of an EA, but not necessarily an EIS (appendix C to this subpart D); or

(3) Require preparation of an EIS (appendix D to this subpart D).

(b) Any completed, valid NEPA review does not have to be repeated, and no completed NEPA documents need to be redone by reasons of these regulations, except as provided in § 1021.314.

(c) If a DOE proposal is encompassed within a class of actions listed in the appendices to this subpart D, DOE shall proceed with the level of NEPA

review indicated for that class of actions, unless there are extraordinary circumstances related to the specific proposal that may affect the significance of the environmental effects of the proposal.

(d) If a DOE proposal is not encompassed within the classes of actions listed in the appendices to this subpart D, or if there are extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal, DOE shall either:

(1) Prepare an EA and, on the basis of that EA, determine whether to prepare an EIS or a FONSI; or

(2) Prepare an EIS and ROD.

§ 1021.410 Application of categorical exclusions (classes of actions that normally do not require EAs or EISs).

(a) The actions listed in appendices A and B to this subpart D are classes of actions that DOE has determined do not individually or cumulatively have a significant effect on the human environment (categorical exclusions).

(b) To find that a proposal is categorically excluded, DOE shall determine the following:

(1) The proposal fits within a class of actions that is listed in appendix A or B to this subpart D;

(2) There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal. Extraordinary circumstances are unique situations presented by specific proposals, including, but not limited to, scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternative uses of available resources; and

(3) The proposal has not been segmented to meet the definition of a categorical exclusion. Segmentation can occur when a proposal is broken down into small parts in order to avoid the appearance of significance of the total action. The scope of a proposal must include the consideration of connected and cumulative actions, that is, the